

OGC 73-1784

OGC Has Reviewed

18 September 1973

MEMORANDUM FOR: SSA/DDM&S

SUBJECT: [REDACTED]-Request for Reimbursement for Storage of Household Effects

STATINTL

1. You have requested the opinion of this Office as to whether, under existing authority, the Agency may legally reimburse [REDACTED] for shipping and storing household effects (HHE), up to his maximum weight entitlement. It is understood that the HHE shipped and the HHE stored were identical.

2. The facts as presented in your memorandum are:

[REDACTED] was assigned PCS to [REDACTED] in May 1970. He initially planned that his wife would be safehavened in [REDACTED] and he would have been entitled to reimbursement for her travel costs including shipment or storage of their household effects up to specified weight limitations. Just prior to his departure, however, a medical hold was placed on his wife and [REDACTED] went to [REDACTED] unaccompanied. At that point he decided that, because of her medical problems, [REDACTED] should live near her parents, who were moving to Atlanta in conjunction with a change in her father's employment. Consequently, the Agency authorized the shipment of [REDACTED] household effects to Atlanta, and approved temporary storage in Atlanta until his wife obtained quarters there. The father's plans

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were changed, however, the parents continued to live in New Jersey, and

[redacted] elected to live there with them rather than establish a home in

Atlanta. At this point, [redacted] would have been entitled to have his effects taken out of storage in Atlanta and shipped to New Jersey with the understanding that, when he completed his tour, he would be personally responsible for all shipping expenses in excess of the cost of shipping the effects from Atlanta to his next post of assignment, wherever that might be. He decided that, since the parent's home was not large enough to accommodate the HHE, and he did not know where his next assignment would be, it would be in his best interests to leave the effects stored in Atlanta and ship them direct to his next post when he left [redacted]. At the conclusion of his tour he was reassigned PCS to Washington, and the HHE were shipped here at Agency expense. He is now requesting special approval for reimbursement for \$1,318.80 for storage charges in Atlanta during his tour in [redacted]

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3. In addition to the above, the undersigned has discussed the case with [redacted] at least twice recently--once in a personal visit and once over the telephone. It is [redacted] position that the Agency is in some way responsible for the storage costs he incurred and that there is some personal hardship in his case which requires the Agency to reimburse him.

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4. The law applicable to the question presented--can the Government pay for shipping and storing the same HHE--can be found within Agency regulations at [redacted]. The entire thrust of that regulation is that with respect to identical HHE, an employee may either ship or store at Agency expense, but he may not do both.

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5. An employee may, of course, be entitled to "temporary storage...at point of departure, destination, or way station," as provided for at [redacted] but he is not entitled to "nontemporary storage" of HHE that he has elected to ship, even if the product of the weight of his HHE, multiplied by a factor of two (2), is within his maximum weight entitlement:

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Nontemporary storage means continuing storage of effects in lieu of shipment in connection with a permanent duty assignment.

[redacted] and,

The net weight of effects shipped or stored will be determined by weighing the effects on scales....

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Thus, the weight entitlement of a given employee is determined by the amount of HHE he owns. It is not determined by the applicable maximum used by the employee as he wishes. If interpreted in the latter way, an employee who has a maximum weight entitlement of 12,000 pounds but who only owns 4,000 pounds, could theoretically store on a nontemporary basis, then ship, then store again on a nontemporary basis, all within the 12,000 pound maximum. The law and regulations and this Office do not and cannot endorse such a conclusion. The entitlement must be based on what the employee owns and it cannot be cumulative in its application.

6. Lastly, it has been suggested that [redacted] be reimbursed on the basis of the Agency's special authorities under the provisions of [redacted]. It is the opinion of the undersigned that invoking [redacted] would be inappropriate in this case. Agency regulations provide for and treat the shipment of HHE and the matter in question does not arise "out of the unusual functions of this Agency."

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Assistant General Counsel

GMB:ks

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